

[REDACTED]

[REDACTED]

[REDACTED]

MAR 04 1982

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information furnished shows that you were incorporated under the [REDACTED] Non-Profit Corporation act on [REDACTED]. Your stated purposes are to proclaim the lordship of Jesus Christ and to win souls for Jesus Christ by engaging in charitable, religious, and educational activities, more specifically, as follows: to develop, publish and/or market books, cassette tapes and other printed, audio and/or video materials to further Christian education and Christian outreach; to establish, promote, maintain and/or operate facilities to further Christian education, Christian entertainment, and Christian medical services; to establish, promote, maintain, and/or operate a Christian counseling service for the purpose of providing management, consultation and training, employment services and individual and family counseling; to engage in television programming, radio programming, and recording activities for the purpose of furthering Christian education and Christian outreach; and to foster a Christian witness as a teaching and outreach ministry.

You became operational in [REDACTED] and your primary activity, if not your only activity, has been the publishing and marketing of a religious book. Financing for publishing the book came from advance orders through [REDACTED], a related organization. Marketing of the remaining copies was through mail out announcements and direct contact with Christian bookstores. [REDACTED] copies of the book were published and as of [REDACTED] all copies had been sold. Proceeds from the sale of this first book are being used in publishing and marketing a second Christian book and in a second printing of the first book. You anticipate future involvement in developing, publishing, and marketing books, cassette tapes, and other printed, audio, and video materials. According to your application, books and other published material will be sold at cost.

Reviewer

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Planned activities for fiscal year [REDACTED] are to publish and market the second book, a second printing of the first book, and begin initial steps for publishing a third book. The book will be sold at a wholesale price of \$[REDACTED] per copy and you project sales for [REDACTED] will be \$[REDACTED]. You also expect to receive contributions of \$[REDACTED]. Expenses directly connected with the sale of this book are expected to total \$[REDACTED]. Net proceeds from sale of the book will be spent on second printing costs and publishing of the third book. You estimate that \$[REDACTED] will be disbursed to [REDACTED].

Planned activities for fiscal year [REDACTED] are to market your first and second books, publish your third book, and begin initial steps to publish your fourth book. You project sales of \$[REDACTED] and contributions received of \$[REDACTED] for [REDACTED]. Expenditures will be for printing, advertising, shipping, supplies, and a disbursement of \$[REDACTED] to [REDACTED]. It is projected that expenditures will equal revenues for [REDACTED] and [REDACTED].

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(b)(4) Distribution of assets on dissolution. An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders."

Your Articles of Incorporation do not contain a dissolution provision to dedicate your assets to charitable purposes. Therefore, you fail to meet the organizational test of section 501(c)(3).

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(e)(1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations provides that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of those purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business.

In Scripture Press Foundation v U. S., 285 F.2d 800 (1961), a corporation was held not to be exempt from taxation as one organized and operated exclusively for religious and educational purposes, since the court concluded that the enormity of the contrast between what the Foundation accumulated from sales of religious literature over a seven year period and what it had expended for its educational programs revealed that the sale of religious literature was its primary activity and that its stimulation of the growth of Protestant Sunday Schools was incidental thereto. It further concluded that the sale of these materials, however religiously inspired, involved the plaintiff in the conduct of a trade or business for profit, reflecting a non-educational purpose which was not only substantial in nature but preponderate.

In Fides Publishers Association v U. S., 263 F Supp 924 (1967), a corporation which was an independent, profit-making, publisher of specialized literature designed to promulgate the "Catholic Action" movement was held to be operated for a business purpose so as to disqualify it from exemption as organized and operated exclusively for religious, charitable and educational purposes, notwithstanding disclaimers to the contrary. The "Catholic Action" movement was aimed at educating Catholic laymen as to their new and active role within the Church by putting before them literature which was already circulated widely throughout Europe, England, and Canada.

Rev. Rul. 60-351, 1960-2 C.B. 169, describes an organization that publishes a foreign language magazine containing fiction, poetry, book reviews and articles alleged to be of a literary, scientific, and educational character. The magazine is available to the general public through regular subscriptions. It was held that the corporate activities are devoted to publishing the

magazine and selling it to the general public in accordance with ordinary commercial publishing practices, and therefore the organization is not exempt from Federal income tax under section 501(c)(3) of the Code.

Although you may publish and distribute materials of a religious nature, your record of activities and operations to date, and your planned activities, indicate that your primary purpose is to publish, distribute, and sell a product in accordance with ordinary commercial publishing practices. The books are not sold below cost, you advertise their availability, and you sell the books through bookstores. The manner in which you distribute and publish your materials has the character of a trade or business and is similar to that of a commercial publishing house catering to religious customers. Your organization is similar in operation to the one described above in Revenue Ruling 60-351.

Accordingly, we have determined that you are not operated exclusively for any of the purposes specified in section 501(c)(3). Therefore, since you do not meet the organizational and operational tests as set forth in the regulations cited above, tax-exemption under section 501(c)(3) is denied. You should continue filing Federal income tax returns.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6015 in the enclosed self-addressed envelope as soon as possible.

(5)

[REDACTED]

If you have any questions, please contact the person whose name and telephone number appear at the beginning of this letter.

Sincerely,

[REDACTED]  
District Director

Enclosures:  
Publication 892  
Form 6018